IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 789 OF 2006

Vthoba Rajaram Jankar
& Ors. .. Petitioners.

vs.

State of Maharashtra
& Ors. .. Respondents.

Mr. S.M. Railkar for petitioners.
Mr. K.K. Singhvi a/w Vinod Mahadik
for respondents 2 & 3.
Mr. G.V. Murti for respondent no. 4.
Ms. Mamta Sadh, AGP., for R. No. 1-State.
Mr. Abhay Pavas for R. No. 5.

CORAM : S.U. KAMDAR, J.
DATE : 17th April, 2006.

P.C.:

. The petitioners have filed the present petition challenging the levy of the property tax of Rs. 32,98,828/-. It is an admitted position that the petitioners have purchased the property and come in occupation only from 2001 and prior thereto they

were not occupiers of the said property. The property tax outstanding statement as issued by the Corporation at Exhibit A to the petition indicate that the property tax is outstanding from October 1996 onwards i.e. during the period when the property was under construction property tax is levied as an LUC. The learned counsel appearing for the builders states that he has not paid the said amount for the period October 1996 to 2001 when the flats were not sold to the present petitioners. However, he contends that the Corporation must redetermine the property tax as in other cases on revision they have reduced the rate in respect of LUC. I have offered him such redetermination by the Corporation provided he deposits the amount of the property tax outstanding from October 1996 to 2001 during the period when he was constructing the said building and that deposit would be subject to the said redetermination by the Corporation. However the learned counsel for respondent no. 4 expressed his inability to deposit any amount whatsoever. In my opinion the builder can not be permitted to go on litigating the property tax quantum and not pay any amount whatsoever. The taxes were outstanding since 1996 and after period of 10 years it is high time that outstanding property tax be recovered. In so far as the period from 2001 onwards is concerned, the learned counsel for the Corporation states that the property tax has been bifurcated in

rehabilitated buildings and new building which has been occupied by the petitioners. The learned counsel for the petitioners however states that the new building is not fully occupied by the petitioners but there are certain tenants who have been rehabilitated on the ground and first floor.

2. In respect of the period 2001 onwards, the Corporation has also bifurcated the property tax. It is the case of the petitioners that as against the said claim the petitioners have already paid to the Corporation Rs. 5,68,650/- He undertakes to deposit the balance amount, if any, towards the property taxes with the Corporation. On such deposit being made, the Corporation shall under Section 209A of the B.M.C. Act shall redetermine the property tax flatwise and thereafter for non-payment of the property tax if the amount is not paid within 15 days from the communication of such redetermined amount, the Corporation will sell their respective flats for recovery of tax. It is also made clear that the Corporation shall be entitled to initiate all actions against the builder for non-payment of property taxes during the period 1996 to 2000.

3. Petition disposed of accordingly. No order as to costs.

. C.C. expedited.